

<b>Notice of Allowability</b>	<b>Application No.</b> 10/070,048 <b>Examiner</b> Edna Wong	<b>Applicant(s)</b> NISHINO ET AL. <b>Art Unit</b> 1753
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Amendment dated June 14, 2004.
2.  The allowed claim(s) is/are 1-11.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date 12/10/03.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review ( PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_

*Edna Wong*  
**EDNA WONG**  
**PRIMARY EXAMINER**

***Drawings***

The drawings filed on February 22, 2002 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

***EXAMINER'S AMENDMENT***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

**IN THE CLAIMS**

Claim 2, line 5, the word "and" has been deleted and replaced with the word -- or

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Claim 3, line 6, the word "and" has been deleted and replaced with the word -- or

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Claim 6, line 5, the word "and" has been deleted and replaced with the word -- or

--.

Claim 7, line 6, the word "and" has been deleted and replaced with the word -- or --.

Claim 10, line 1, the word "and" has been deleted and replaced with the word -- or --.

Claim 11, line 1, the word "and" has been deleted and replaced with the word -- or --.

#### ***REASONS FOR ALLOWANCE***

The following is an examiner's statement of reasons for allowance:

Claims **1-4** are allowable over the prior art of record because the prior art does not teach or suggest a method for synthesizing absolute asymmetry which comprises the steps of providing and irradiating as presently claimed, esp., concentrating one of the enantiomers or diastereomers in the starting material and one of the enantiomers or diastereomers in the product that corresponds to the enantiomer or diastereomer not concentrated in the starting material.

Claims **5-11** are allowable over the prior art of record because the prior art does not teach or suggest a method for synthesizing absolute asymmetry which comprises the steps of providing and increasing as presently claimed, esp., increasing a concentration of one of the enantiomers or diastereomers in the starting material and

simultaneously increasing a concentration of one of the enantiomers or diastereomers in the product that corresponds to the enantiomer or diastereomer not concentrated in the starting material.

The prior art does not contain any language that teaches or suggests the above. *Salem et al.* teaches controlling the relative populations of two enantiomeric molecular states arising from the excitation of the ground state enantiomers of a chiral molecule. The excited state is not a product which is a different chemical substance (e.g., isomerized substances). Therefore, a person skilled in the art would not have been motivated to adopt the above conditions, and a *prima facie* case of obviousness cannot be established.

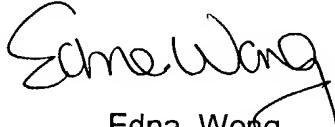
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edna Wong whose telephone number is (571) 272-1349. The examiner can normally be reached on Mon-Fri 7:30 am to 5:00 pm, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edna Wong  
Primary Examiner  
Art Unit 1753

EW  
July 13, 2004